

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

April 8, 2010

Lyle W. Cayce
Clerk

No. 09-40701

Summary Calendar

WILLIE JAMES MCCRAY,

Plaintiff-Appellant

v.

WILLIE HAWKINS, In His Individual Capacity; JOE ALONZO, In His Individual Capacity; UP OUTLAW, Individually and in his Official Capacity as Warden; UP MARTINEZ, Individually and in her Official Capacity as Associate Warden; UP DOTTY, Individually and in her Official Capacity as Case manager Coordinator; ANGELA L. GENTRY, Individually and in her Official Capacity as Unit Manager; R. P. SACKETT, Individually and in her Official Capacity as Case Manager; REBECCA TAMEZ, Individually and in her Official Capacity as DSCC Administrator; UNKNOWN PARTIES, Unknown USP Beaumont, Texas Officials in their Individual Capacities; STACEY BUTLER, Inmate; JOHN MIRERS, Inmate; PERSONS UNKNOWN, unknown USP Beaumont, Texas Inmates in their Individual Capacities; UP ADUICCI, Individually and in her Official Capacity as Associate Warden; UNKNOWN OFFICIALS, In their Individual capacities at FCI Beaumont Medium; FCC BEAUMONT LOW UNKNOWN OFFICIALS, In their Individual Capacities at FCC Beaumont Low; FCI BEAUMONT MEDIUM UNKNOWN OFFICIALS, In their Individual Capacities as Officials,

Defendants-Appellees

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:07-CV-129

Before JOLLY, WIENER, and ELROD, Circuit Judges.

PER CURIAM:*

Willie James McCray, federal prisoner # 24599-018, appeals from the magistrate judge's denials of his various pretrial motions. McCray consented to the magistrate judge's resolution of these motions pursuant to 28 U.S.C. § 636(c). However, because the magistrate judge's orders denying those motions are neither final decisions nor appealable collateral orders, this court lacks jurisdiction to consider them in this appeal. *See* 28 U.S.C. § 1291; *Davis v. East Baton Rouge Parish Sch. Bd.*, 78 F.3d 920, 925-26 (5th Cir. 1996). His appeal must therefore be dismissed.

McCray also petitions this court for a writ of mandamus on the grounds that (1) certain of his pretrial motions were granted initially before the magistrate judge issued the order denying them and (2) the defendants were criminally convicted as part of this action and should have already been sentenced. Both of McCray's asserted grounds are erroneous. McCray's mandamus petition is denied.

McCray previously filed a similar mandamus petition, which was also denied. McCray is warned that any future frivolous, repetitive, or otherwise abusive filings will invite the imposition of sanctions, including dismissal, monetary sanctions, and restrictions upon his ability to file pleadings in this court or any other court subject to this court's jurisdiction.

APPEAL DISMISSED; MANDAMUS PETITION DENIED; SANCTION WARNING ISSUED.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.